# Public Notice

**US Army Corps of Engineers**
**Fort Worth District**

**Number:** CESWF-96-RGP-6

**Date:** September 26, 1996

This public notice is to inform you of the issuance of the Regional General Permit listed above on September 26, 1996. The permit will automatically expire on September 25, 2001, unless it is previously revoked, modified or extended.

**Regulatory Program**

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

**Section 10**

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

**Section 404**

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

**Contact**

U.S. Army Engineer District
Regulatory Branch
PO Box 17300
Fort Worth, TX 76102-0300
(817) 978-2681

U.S. Army Engineer District
El Paso Regulatory Office
P. O. Box 6069
Fort Bliss, TX 79906-0096
(915) 568-1359

**REGIONAL GENERAL PERMIT**

**AERIAL UTILITY LINE AND CABLE CROSSINGS**

Interested parties are hereby notified that, in accordance with 33 CFR 325.2(e) published in the Federal Register November 13, 1986, the Albuquerque and Fort Worth districts of the U. S. Army Corps of Engineers (USACE) authorize the work described herein by regional general permit pursuant to Section 404 of the Clean Water Act and to Section 10 of the Rivers and Harbors Act of 1899.

The purpose of this regional general permit is to expedite the authorization of minor recurring work. This regional general permit contains provisions intended to protect the environment, including natural and cultural resources. Work that will not comply with these terms and conditions may require authorization by individual permit. However, compliance with the provisions of this regional general permit does not guarantee authorization of the proposed work by this regional general permit. Work or structures that will have unacceptable impacts on the public interest are not authorized. Activities requiring Department of the Army authorization not specifically covered by this regional general permit are prohibited unless authorized by a separate permit.

This regional general permit replaces Regional General Permit SWF-89-DISTRICT-RGP-6, Aerial Electric Power Transmission and Communication Lines and Cable Crossings, which expired on July 15, 1995.

SCOPE OF WORK:

Work authorized by this regional general permit is limited to the construction of aerial utility line and cable crossings of navigable waters of the United States and the discharge of material into waters of the United States associated with the construction of these structures and their rights-of-way. The area of waters of the United States that is disturbed must be limited to the minimum amount necessary to construct these structures. Impacts to waters of the United States, including wetlands, shall be avoided and minimized through the use of practicable alternatives. Activities that would have substantial adverse impacts on the aquatic environment are not authorized by this regional general permit.

An "aerial utility line" is defined as any pipe or pipeline used for the transportation of a gaseous, liquid, liquefiable, or slurry substance and any cable, line, or wire used for the transmission of electrical energy, telephone and telegraph messages, and radio and television communication that is constructed above the normal ground or water surface.

An "aerial cable" is defined as any nonelectric, noncommunication cable, such as a stream gaging cable or a ferry cable, that is constructed above the normal ground or water surface.

The work is subject to the following limitations:

1. Crossings of Navigable Waters:

The following minimum clearances are required for aerial utility lines and cables crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the U.S. Coast Guard for new fixed bridges, in the vicinity of the proposed aerial utility line or cable. The clearances are based on the low point of the line under conditions which produce the greatest sag, taking into consideration temperature, load, wind, length or span, and type of supports as outlined in the National Electrical Safety Code.

| Type | Minimum Additional Clearance (Feet) above Clearance Required for Bridges |
|---|---|
| Aerial utility lines & cables (other than electric power transmission lines) | 10 |
| Aerial electric power transmission lines: | |
| Nominal System Voltage, kV | |
| 0-115 | 20 |
| 138 | 22 |
| 161 | 24 |
| 230 | 26 |
| 350 | 30 |
| 500 | 35 |
| 700 | 42 |
| 750-765 | 45 |

2. Crossings of USACE Lake Projects:

The following minimum clearances are required for aerial utility lines and cables crossing USACE lake projects. These clearances are related to the clearances over the flood control pool elevation which corresponds to the total design capacity of the lake project. The clearances are based on the low point of

the line under conditions which produce the greatest sag, taking into consideration temperature, load, wind, length or span, and type of supports as outlined in the National Electric Safety Code.

| Type | Minimum Vertical Clearance in Feet |
|---|---|
| Utility lines (other than electric power transmission lines) | 52 (plus 5 feet at sailboat rigging and launching areas) |
| Aerial cables | Established on a case-by-case basis. |
| Electric Power Transmission Lines:<br>Nominal System Voltage, kV: | |
| 0-87 | 55 |
| 88-115 | 56 |
| 116-161 | 57 |
| 162-230 | 58 |
| 231-345 | 60 |
| 346-500 | 64 |
| 501-765 | 69 |

In cases where both requirements apply (1 and 2), the greater minimum clearance is required.

Power transmission lines greater than 765 kV will require authorization by individual permit.

Aerial electric power transmission and communication lines may be extended for service to facilities such as boat houses, residences, outdoor lights, and electrical equipment. These facililties shall be designed to comply with the minimum clearances specified by the National Electric Safety Code.

3. Crossings over Non-navigable Waters with Known Sailboat Activity:

For crossings over non-navigable waters with known sailboat activity, please consult the National Electrical Safety Code for required clearances.

4. Discharges into Waters of the United States Including Wetlands (Waters):

This general permit authorizes the discharge of dredged or fill material into waters associated with the construction of towers or pole supports, pipeline abutments, supports, and columns, access roads, and minor leveling associated with right-of-way clearing and maintenance. The discharge of dredged or fill material for tower or pole supports and pipeline abutments, supports, and columns is limited to the minimum necessary,

not to exceed 35 cubic yards for each. Right-of-way clearing of vegetation is limited to the **minimum necessary**, not to exceed the following:

| Type | Maximum Cleared ROW (Feet) |
|---|---|
| Aerial utility lines and cables (other than electric power transmission lines) | 100 |
| Electric power transmission lines: | |
| Nominal System Voltage, kV | |
| 115 and less | 100 |
| 138 | 110 |
| 161 | 150 |
| 230-350 | 175 |
| 500-765 | 250 |

If two lines on separate supporting towers are placed adjacent to one another, the maximum cleared width of both ROW's together is limited to the allowable width of the largest line plus 70% of that width.

Discharges of dredged or fill material into waters from clearing, grading, or other activities associated with ROW construction are limited to the minimum necessary to provide a surface suitable for future maintenance. There must be no significant change in drainage patterns within, or reach of, waters of the United States, including wetlands, as a result of the activity. ROW's are to be revegetated and returned to pre-construction drainage conditions prior to completion of the project.

5. Maintenance and Access Roads: Temporary access and construction roads may be constructed in waters provided the roadbed is 20 feet or less in width and the road surface is not raised more than 24 inches in elevation above the normal surface ground elevation. Following completion of the line, the temporary road must be leveled and all non-native borrow material must be removed to an upland site. This general permit does not authorize the construction of permanent elevated access and maintenance roads.

Fill material for all construction is restricted to native soils obtained at the work site and concrete, sand, gravel, rock or other coarse aggregate material. Material utilized should be of suitable quality and free of toxic pollutants in toxic amounts. All fills must be maintained in a stable condition to prevent erosion, and designed and constructed (e.g., bridged or culverted) to pass expected high flows and maintain surface water circulation patterns.

6. Tower and Pole Design: Poles and towers must be of a standard design which prevents accidental electrocution of birds of prey such as hawks and eagles.

LOCATION OF WORK:

The provisions of this regional general permit will be applicable to all waters of the United States, including all navigable waters of the United States, within the regulatory boundaries of the Albuquerque and Fort Worth Districts, in the states of Texas and Louisiana (see the attached map and list of navigable waters, appendixes B and C), with the following exception:

From the Precinct Line Road crossing of the West Fork Trinity River in Tarrant County, Texas, to the State Highway 34 crossing of the Trinity River in Kaufman County, Texas, dredged material cannot be used for cofferdams, equipment ramps, or similar structures. Dredged material may only be used for backfill in those projects where the trench has been completely de-watered. In such cases, dredged material can only be used to within two feet of the top of the trench and must be covered by two feet of clean fill material. Material excavated from these sections of the river must be properly disposed of at an upland site and covered to prevent re-entry into the river or contamination of surface or ground water. The location of all disposal sites must be included in the application for authorization.

WATER QUALITY CERTIFICATION:

The Louisiana Department of Environmental Quality (LDEQ) has certified the discharges authorized by this permit pursuant to Section 401 of the Clean Water Act. The Texas Natural Resource Conservation Commission (TNRCC) and the Railroad Commission of Texas (RCT) have waived certification.

AUTHORIZATION FROM OTHER AGENCIES:

This regional general permit should not be considered as an approval of the design features of any authorized structure or as an implication that the structure is adequate for its intended purpose. This permit does not authorize any damage to private property, invasion of property rights, or any infringement of federal, state, or local laws or regulations. The permittee is responsible for obtaining any additional federal, state, or local permits that may be required, which include, but are not limited to:

1. When streambed materials such as sand, shell, gravel and marl are to be disturbed or removed from state-owned waters in Texas, the permittee may be required to obtain a permit from the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. All activities occuring on lands owned or managed by the Texas Parks and Wildlife Department require a signed agreement from that agency prior to commencing operations.

2. All activities in Texas located on lands under the jurisdiction of the General Land Office, 1700 North Congress Avenue, Austin, Texas 78701-1495, must have prior approval from that office. The placement of structures onto state-owned streambeds in Texas may require an easement from the General Land Office.

3. Any work on lands or in waters under the jurisdiction of any river authority or other operating agency may require a permit from that agency.

4. Projects involving government property on USACE reservoirs will require submission of detailed design information to the reservoir manager and USACE approval of the proposed activity.

5. Activities within a 100-year floodplain may require a permit from the local floodplain administrator or the TNRCC. In addition, evidence that the project meets non-encroachment restrictions in regulatory floodways may be required.

6. Activities such as clearing, grading, and excavation that would disturb five or more acres of land may require a National Pollutant Discharge Elimination System storm water management permit from the U.S. Environmental Protection Agency, Region 6, Water Quality Protection Division (6WQ), 1445 Ross Avenue, Dallas Texas 75202.

7. Activities associated with the exploration, development, or production of oil, gas, or geothermal resources, including the transportation of oil or gas prior to the refining of such oil or the use of such gas in manufacturing or as a fuel, as described in Tex. Nat. Res. Code Ann. §91.101, may require authorization from the Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967 and/or the Federal Energy Regulatory Commission, 3125 Presidential Parkway, Suite 300, Atlanta, Georgia 30340.

8. The construction, operation, maintenance, or connection of facilities at the borders of the United States are subject to Executive control and must be authorized by the President, Secretary of State, or other delegated official. Proposed activities subject to authorization under this permit and affecting an international water in Texas, including the Rio Grande, Amistad Reservoir, Falcon Lake, and all tributaries of the Rio Grande, may require authorization from the International Boundary and Water Commission, The Commons, Building C, Suite 310, 4171 N. Mesa Street, El Paso, Texas 79902.

9. Projects involving construction of a bridge or equivalent thereof across a navigable water of the United States may require authorization from the Commander, Eighth Coast Guard District (ob), Bridge Administration Branch, Hale Boggs Federal Building, Room 1313, 501 Magazine Street, New Orleans, Louisiana 70130-3396.

10. Activities outside the permit area of the USACE that may affect a federally listed endangered or threatened species or its critical habitat could require permits from the U.S. Fish and Wildlife Service to prevent a violation of the Endangered Species Act under Section 9.

CONDITIONS OF THE REGIONAL GENERAL PERMIT:

In addition to limitations discussed in the scope of work, projects authorized by this regional general permit are subject to the general conditions contained in Appendix A.

APPLICATION PROCEDURES:

Applications for authorization under Regional General Permit CESWF-95-DISTRICT-RGP-6 and TX-95-50095 must include a written description of the proposed project, proposed construction schedule, and a point of contact, with an address and a telephone number at which the point of contact can be reached during working hours. The information may be assembled in a format convenient to the applicant. A description of the project must include at least the following information, as applicable:

1. A vicinity map (i.e., county map, USGS quad sheet, etc.) showing the entire route of the utility line or cable, including any borrow or disposal site(s).

2. Plan and profile views of all crossings of waters of the United States, and cross-sectional views of all associated fills, excavations, and attendant structures (e.g., tower or pole supports, pipeline abutments and supports, columns, coffer dams, equipment ramps, etc.), both permanent and temporary, in waters of the United States, including wetlands.

3. The volume of material proposed to be discharged into and/or excavated from waters of the United States and the proposed type and source of the material. In cases where the activity may result in a change to pre-construction contours or drainage patterns, provide the reasons why the changes are necessary and a description of the anticipated outcome of the changes.

4. A delineation and description of wetlands and other waters of the United States in the area that would be affected by the proposed work and a description of the project's likely impact on the aquatic environment. In addition, the width and depth of the water body and the waterward distance of any structures from the existing shoreline if located on a navigable water or a USACE lake project.

5. The system voltage (if applicable), size of the utility line or cable, width of the right-of-way to be disturbed, and proposed minimum clearances. Include documentation showing that the amount of area impacted is the minimum necessary to accomplish the project.

6. A statement disclosing whether or not any species listed as threatened or endangered under the Endangered Species Act might be affected by, or found in the vicinity of, the proposed project. Direct coordination with the U.S. Fish and Wildlife Service (FWS) concerning the potential impact of the entire project on threatened and endangered species is strongly encouraged.

7. The applicant should include any other relevant information, including available information regarding cultural resources and hydrology.

Address applications and inquiries regarding proposed activities to the district office within whose boundaries the proposed project falls (see Appendix A):

| | |
|---|---|
| Fort Worth District: | Regulatory Branch, U.S. Army Corps of Engineers, Fort Worth District, ATTN: CESWF-OD-R, P.O. Box 17300, Fort Worth, TX 76102-0300, telephone: (817) 978-2681, fax: (817) 978-2120. |
| Albuquerque District: | El Paso Regulatory Office, U.S. Army Corps of Engineers, Albuquerque District, ATTN: CESWA-CO-R-EP, P.O. Box 6096, Fort Bliss, TX 79906-0096, telephone: (915) 568-1359, fax: (915) 568-1348. |

Construction may commence upon written notification by the District Engineer that the project meets the terms and conditions of the regional general permit. It is the applicant's responsibility to insure that the authorized structures and activities meet the terms and conditions set forth herein; failure to abide by them will constitute a violation of the Clean Water Act and/or the Rivers and Harbors Act of 1899. Projects outside the scope of this regional general permit can be considered for authorization by individual permit.

This permit shall become effective on the date of the signature of the District Engineers, or their authorized representative, and will automatically expire five years from that date unless the permit is modified, revoked,

or extended before that date. Activities authorized under this regional general permit that have commenced (i.e., are under construction), or are under contract to commence in reliance on this permit, will remain authorized provided the activity is completed within twelve months of the expiration, modification, or revocation of the permit, unless discretionary authority has been exercised by the USACE on a case-by-case basis to modify, suspend, or revoke the authorization.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:
FOR THE DISTRICT ENGINEERS :

**ORIGINAL SIGNED**

Peter T. Madsen
Colonel, Corps of Engineers
District Engineer
Fort Worth District

Lloyd S. Wagner
Lieutenant Colonel, EN
District Engineer
Albuquerque District

**APPENDIX A**

**CONDITIONS OF REGIONAL GENERAL PERMITS CESWF-95-DISTRICT-RGP-6**

**AND TX-95-50095**

GENERAL CONDITIONS:

1. In verifying authorization under this regional general permit, the Department of the Army has relied in part on the information provided by the permittee. If, subsequent to verifying authorization, such information proves to be false, incomplete, or inaccurate, the verification may be revoked.

2. Structures and activities authorized by this regional general permit shall comply with all terms and conditions herein. Failure to abide by such conditions invalidates the authorization and may result in a violation of the law, requiring restoration of the site or other remedial action.

3. A regional general permit should not be considered as an approval of the design features of any authorized activity or an implication that such is considered adequate for the purpose intended; a Department of the Army permit merely expresses the consent of the Federal Government to the proposed work insofar as public rights are concerned. This permit does not authorize any damage to private property, invasion of private rights, or any infringement of federal, state or local laws or regulations. Nor does it relieve the permittee from the requirement to obtain a local permit from the jurisdiction within which the project is located and to address all non-encroachment restrictions within a regulatory floodway of such local jurisdiction as identified by the Federal Emergency Management Agency.

4. This regional general permit may be modified or suspended in whole or in part if it is determined that the individual or cumulative impacts of work that would be authorized using this permit are contrary to the public interest. The authorization for individual projects may also be summarily modified, suspended, or revoked, in whole or in part, upon a finding by the District Engineer that immediate suspension of the project would be in the public interest.

5. Any modification, suspension or revocation of the District Engineer's authorization shall not be the basis for any claim for damages against the United States.

6. This permit does not authorize the interference with any existing or proposed Federal project, and the permittee shall not be entitled to compensation for damage or injury to the structures or activities authorized herein which may result from existing or future operations undertaken by the United States in the public interest.

7. No attempt shall be made by the permittee to prevent the full and free public use of all navigable waters of the United States, at or adjacent to the project authorized herein.

8. There shall be no unreasonable interference with navigation by the existence or use of the permanent and temporary structures authorized herein.

9. The permittee shall make every reasonable effort to conduct the activities authorized herein in a manner that will minimize any adverse impact of the work on water quality, fish and wildlife, and the natural environment, including adverse impacts to migratory waterfowl breeding areas, spawning and migratory areas, and trees, particularly mast-producing trees such as oaks and hickories.

10. The permittee shall allow the District Engineer and his authorized representative(s) to make periodic inspections at any time deemed necessary to assure that the activity being performed under this authorization is in accordance with the terms and conditions prescribed herein.

11. The impact of activities authorized by this regional general permit on cultural resources listed, or eligible for listing, in the National Register of Historic Places (NRHP), shall be taken into account by the U.S. Army Corps of Engineers (USACE) prior to the initiation of work. If previously unknown cultural resources are encountered during work authorized by this permit, the appropriate USACE district shall be notified and the sites avoided until the USACE can assess their eligibility for listing in the NRHP. Sites determined to be eligible for listing in the NRHP shall be mitigated in consultation with the USACE. Cultural resources include prehistoric and historic archeological sites, and areas or structures of cultural interest which occur in the permit area.

12. Appropriate erosion and siltation controls shall be used and maintained in effective operating condition during construction, and all exposed soil shall be permanently stabilized at the earliest practicable date.

13. All temporary fills shall be removed in their entirety and placed in an upland area.

14. All construction activities in federally maintained channels and/or waterways shall be coordinated for required setback distances with the appropriate USACE area or district office prior to application for a permit.

15. Heavy equipment working in wetlands shall be placed on mats, or other measures shall be taken to minimize disturbances to soil.

16. No authorization shall be granted under this regional general permit for an activity that is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act, or for an activity that is likely to destroy or adversely modify the critical habitat of such species. Permitees shall notify the District Engineer if any listed species or critical habitat might be affected by, or is in the vicinity of, the project and shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

17. The permittee shall properly maintain any structure or fill authorized by this regional general permit, including maintenance to ensure public safety.

18. Any discharge of dredged or fill material shall not be located in the proximity of a public water supply intake.

19. The activity shall not occur in a component of the National Wild and Scenic River System.

20. Stream realignment is not authorized under this regional general permit.

21. Discharges of dredged or fill material into waters of the United States shall be avoided or minimized through the use of other practicable alternatives.

22. Activities shall not restrict or impede the passage of normal or expected high flows or cause the relocation of water unless the primary purpose of the fill is to temporarily impound water.

23. The facilities shall be designed to be stable against the forces of flowing water, wave action, and the wake of passing vessels.

24. This permit does not authorize the discharge of dredged or fill material into waters of the United States for purposes of disposal into, or reclamation of, an aquatic area, such as a wetland.

25. This permit does not authorize work in a park, wildlife management area, refuge, sanctuary, or similar area administered by a federal, state or local agency without that agency's approval.

26. The project shall not significantly disrupt the movement of those species of aquatic life indigenous to the water body or those species that normally migrate through the project area.

## APPENDIX B

## NAVIGABLE WATERS OF THE UNITED STATES THAT PERTAIN TO THIS REGIONAL GENERAL PERMIT

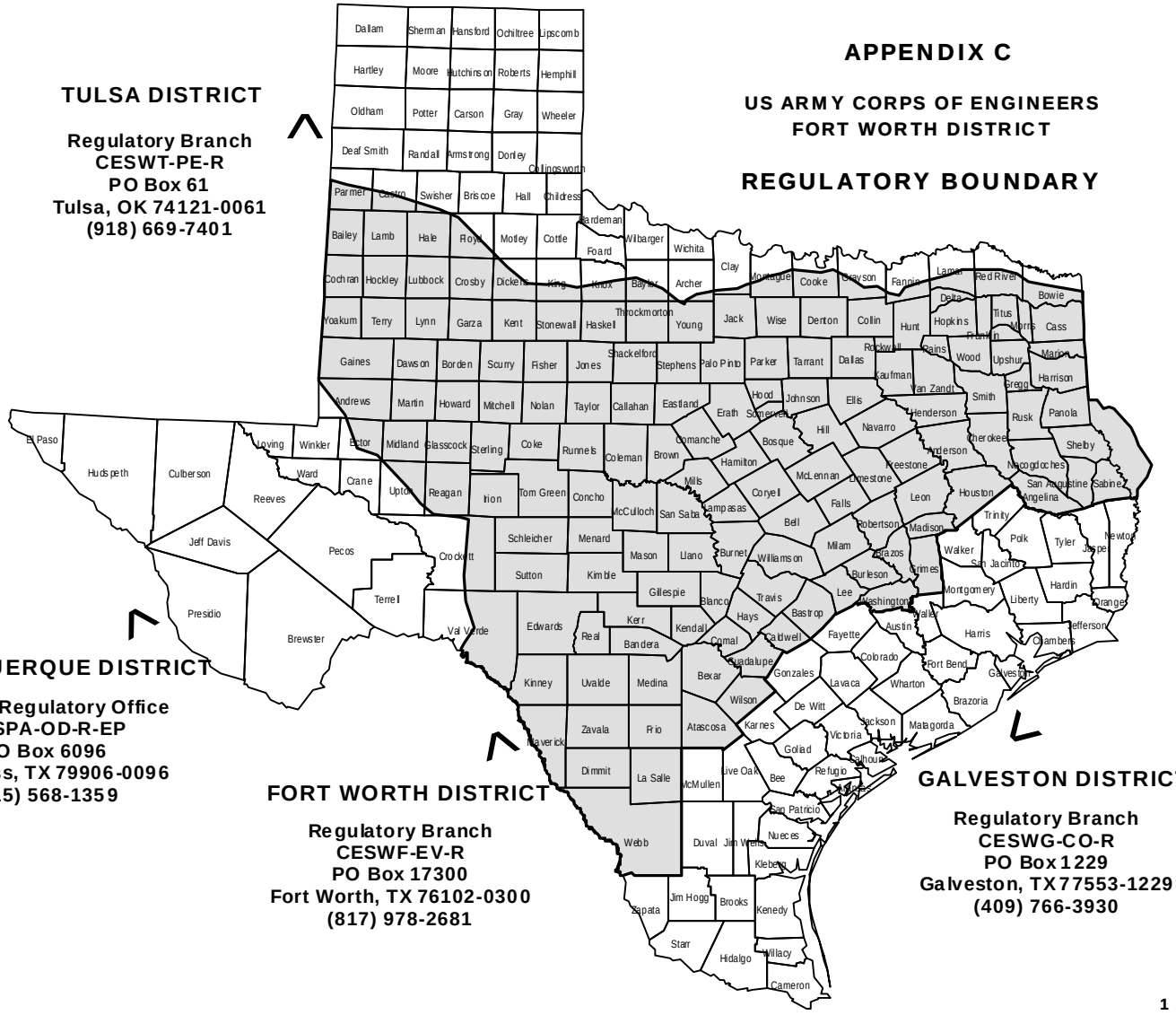
For purposes of Section 10 of the Rivers and Harbors Act of 1899, the following sections of rivers, including their lakes and other impoundments, are considered to be navigable waters of the United States that fall within the jurisdiction of the Fort Worth and Albuquerque districts of the U. S. Army Corps of Engineers in the states of Texas and Louisiana. For information about the navigability of sections of these and other rivers that lie outside the jurisdiction of the Fort Worth and Albuquerque districts, please contact the appropriate U. S. Army Corps of Engineers district.

| | |
|---|---|
| ANGELINA RIVER: | From the Sam Rayburn Dam in Jasper County upstream to U.S. Highway 59 in Nacogdoches and Angelina counties and all U. S. Army Corps of Engineers lands associated with B. A. Steinhagen Lake in Tyler and Jasper counties, Texas. |
| BIG CYPRESS BAYOU: | From the Texas-Louisiana state line in Marion County, Texas, upstream to Ellison Creek Reservoir in Morris County, Texas. |
| BRAZOS RIVER: | From the point of intersection of Grimes, Washington, and Waller counties upstream to Whitney Dam in Hill and Bosque counties, Texas. |
| COLORADO RIVER: | From the Bastrop-Fayette county line upstream to Longhorn Dam in Travis County, Texas. |
| NECHES RIVER: | U. S. Army Corps of Engineers lands associated with B. A. Steinhagen Lake in Jasper and Tyler counties, Texas. |
| RIO GRANDE: | From the Zapata-Webb county line upstream to the point of intersection of the Texas-New Mexico state line and Mexico. |
| SABINE RIVER: | From the point of intersection of the Sabine-Vernon parish line in Louisiana with Newton County, Texas upstream to the Sabine River-Big Sandy Creek confluence in Upshur County, Texas. |
| SULPHUR RIVER: | From the Texas-Arkansas state line upstream to Wright Patman Dam in Cass and Bowie counties, Texas. |
| TRINITY RIVER: | From the point of intersection of Houston, Madison, and Walker counties upstream to Riverside Drive in Fort Worth, Tarrant County, Texas. |

# APPENDIX C

## US ARMY CORPS OF ENGINEERS
## FORT WORTH DISTRICT

## REGULATORY BOUNDARY




### TULSA DISTRICT

**Regulatory Branch**
**CESWT-PE-R**
**PO Box 61**
**Tulsa, OK 74121-0061**
**(918) 669-7401**

### ALBUQUERQUE DISTRICT

**El Paso Regulatory Office**
**CESPA-OD-R-EP**
**PO Box 6096**
**Fort Bliss, TX 79906-0096**
**(915) 568-1359**

### FORT WORTH DISTRICT

**Regulatory Branch**
**CESWF-EV-R**
**PO Box 17300**
**Fort Worth, TX 76102-0300**
**(817) 978-2681**

### GALVESTON DISTRICT

**Regulatory Branch**
**CESWG-CO-R**
**PO Box 1229**
**Galveston, TX 77553-1229**
**(409) 766-3930**

**1 April, 1998**